

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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*In the Matter of:*

Pimmit Branch  
Falls Church, Virginia 22043  
(Elaine J. Mittleman, Petitioner)

Docket No. A2011-90

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**ANSWER OF UNITED STATES POSTAL SERVICE IN OPPOSITION TO  
PETITIONER'S MOTION DATED JANUARY 13, 2012, TO REQUEST THE  
UNITED STATES POSTAL SERVICE TO SUPPLEMENT THE RECORD  
CONCERNING THE RELOCATION OF THE  
MAIN POST OFFICE IN FALLS CHURCH, VIRGINIA 22046  
(January 19, 2012)**

By means of Order No. 882, the Postal Regulatory Commission (Commission) docketed correspondence from Elaine J. Mittleman (Petitioner), assigning PRC Docket No. A2011-90 as an appeal pursuant to 39 U.S.C. § 404(d).<sup>1</sup> On January 13, 2012, the Petitioner filed a Motion to Request the United States Postal Service to Supplement the Record concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046.<sup>2</sup> As explained below, the Commission should deny this motion.

As an initial matter, the United States Postal Service (Postal Service) renews the arguments that the Commission lacks jurisdiction to hear Petitioner's appeal.<sup>3</sup> This appeal concerns a branch, and not a Post Office for purposes of 39 U.S.C. § 404(d). Section 404(d) does not apply to retail locations such as branches that are subordinate to a Post Office. In the Postal Service's view,

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<sup>1</sup> PRC Order No. 882, Notice and Order Accepting Appeal and Establishing Procedural Schedule, PRC Docket No. A2011-90, September 29, 2011.

<sup>2</sup> Motion of Petitioner to Request the United States Postal Service to Supplement the Record Concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, PRC Docket No. A2011-90, January 13, 2012.

<sup>3</sup> Initial Comments of the United States Postal Service, section 1 (pp. 2-7), PRC Docket No. RM2011-13, October 3, 2011.

Congress knowingly used “Post Office” in its technical sense, thereby excluding stations and branches from the scope of 39 U.S.C. § 404(d).<sup>4</sup>

The motion that the Petitioner filed on January 13, 2012, included two requests. First, the Petitioner requested that the Postal Service “supplement the record in this appeal about the planned relocation of the Falls Church Post Office, which is presently located at 301 W. Broad Street, Falls Church, Virginia 22046,” by providing a copy of “the letter sent to the business customers and other information about the move to Merrifield, Virginia.”<sup>5</sup> Second, the petitioner requested that the Postal Service “supplement the record about the location of any main [P]ost [O]ffice in Falls Church, VA.”<sup>6</sup>

Concerning the first request, the Petitioner previously filed a motion on October 18, 2011, which included a similar request that the Postal Service “provide information and supplement the record in this appeal about the planned relocation of the Falls Church Post Office, which is presently located at 301 W. Broad Street, Falls Church, VA 22046.”<sup>7</sup> On October 25, 2011, the Postal Service filed an answer to that motion, stating that the Commission should deny the Petitioner’s request because plans concerning the carrier annex at 301 W.

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<sup>4</sup> See Supplemental Comments of United States Postal Service, PRC Docket No. A2011-90, December 16, 2011, at 2-3; Comments of United States Postal Service, PRC Docket No. A2011-90, November 21, 2011, at 1; Answer of United States Postal Service in Opposition to Petitioner’s Motion to Request the United States Postal Service to Supplement the Record, PRC Docket No. A2011-90, October 25, 2011, at 2; United States Postal Service Notice and Application for Non-Public Treatment, PRC Docket No. A2011-90, October 12, 2011, at 1-2; Response of United States Postal Service to Petitioner’s Application for Suspension of Discontinuance for the Pimmit Branch, Falls Church, Virginia 22043, PRC Docket No. A2011-90, October 7, 2011, at 1-2.

<sup>5</sup> Motion of Petitioner to Request the United States Postal Service to Supplement the Record Concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, PRC Docket No. A2011-90, January 13, 2012, at 1-2.

<sup>6</sup> *Id.*, at 2.

<sup>7</sup> Motion of Petitioner to Request the United States Postal Service to Supplement the Record concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, October 18, 2011, at 3-4.

Broad Street, Falls Church, VA “were not germane to the discontinuance of the Pimmit Branch by the Postal Service.”<sup>8</sup> On November 29, 2011, the Commission issued an order, denying Petitioner’s motion to supplement the record. That order stated that the Commission was “not persuaded that the information sought by Petitioner is relevant to this appeal.”<sup>9</sup> The Commission provided the following reasons:

- “First, the facility at 301 W. Broad Street serves as a carrier annex. It provides no postal retail services. Relocation of the carrier annex would not be subject to review under section 404(d).”<sup>10</sup>
- “Second, that facility is not identified as a potential access point for retail services in the record below.”<sup>11</sup>
- “Third, any information with respect to the possible relocation would be speculative and outside the record that was before the Postal Service. See 39 U.S.C. § 404(d)(5).”<sup>12</sup>

Petitioner has accordingly exhausted her opportunity to request that the administrative record be supplemented with information concerning “the planned relocation of the Falls Church Post Office, which is presently located at 301 W. Broad Street, Falls Church, Virginia 22046.”<sup>13</sup> Petitioner’s renewed motion is

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<sup>8</sup> Answer of United States Postal Service in Opposition to Petitioner’s Motion to Request the United States Postal Service to Supplement the Record, PRC Docket No. A2011-90, October 25, 2011, at 3

<sup>9</sup> PRC Order No. 1005, Order on Motions to Supplement the Record and Modifying Procedural Schedule, PRC Docket No. A2011-90, November 29, 2011, at 2.

<sup>10</sup> *Id.*, at 2.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*, at 3.

<sup>13</sup> Motion of Petitioner to Request the United States Postal Service to Supplement the Record Concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, PRC Docket No. A2011-90, January 13, 2012, at 2; see *also* Motion of Petitioner to Request the United States

therefore barred by principles of issue preclusion and res judicata. The Postal Service accordingly urges the Commission to deny Petitioner's request in this motion.

Concerning Petitioner's additional request that the Postal Service "supplement the record about the location of any main post office in Falls Church, VA,"<sup>14</sup> such information is not germane to the discontinuance of the Pimmit Branch by the Postal Service and therefore is not relevant to this appeal. Thus, the Postal Service further urges the Commission to deny this request.

For the reasons set forth above, the Postal Service urges the Commission to deny the motion filed by the Petitioner on January 13, 2012.

Respectfully submitted,

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Postal Service to Supplement the Record concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, October 18, 2011, at 3-4.

<sup>14</sup> Motion of Petitioner to Request the United States Postal Service to Supplement the Record Concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, PRC Docket No. A2011-90, January 13, 2012, at 2.